

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2713 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAVINDRA @ RAVIPRAKASH

SHRINARAYAN VYAS

Versus

COMMISSIONER OF POLICE

Appearance:

Ms D.R.Kachhavah, Advocate for the petitioner.

Mr.U.R.Bhatt, AGP for the respondents.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 16/07/96

ORAL JUDGEMENT

Ravindra @ Raviprakash Shrinarayan Vyas, who is detained by the order dated 29-2-1996 passed by the Commissioner of Police, Ahmedabad in exercise of the power conferred under sub-section (1) of section 3 of the Gujarat Prevention of Anti-Social Activities Act, 1985, has challenged the said order of detention by way of this petition under Article 226 of the Constitution of India.

In the grounds of detention supplied to the detenu, the detaining authority has placed reliance on six cases registered with the Naranpura Police Station, Ahmedabad for offences punishable under the Bombay Prohibition Act. Out of these cases, four cases are pending in the Court and two cases are pending investigation. The detaining authority has also placed reliance on the statements of four witnesses for the alleged incidents of 16-2-1996 and 20-2-1996. In so far as the incident of 16-2-1996 is concerned, it is alleged by the witness that he was beaten by the detenu, when he tried to separate two drunkards who were abusing each other, on the ground that the witness was trying to prevent the customers of the detenu. In so far as the incident of 20-2-1996 is concerned, the witness was beaten on the ground that he refused the detenu to store in the business place of the witness, the quantity of illicit liquor belonging to the detenu. On both the aforesaid occasions, people gathered. However, as the detenu rushed towards the crowd with knife, because of the fear of the detenu, no person could dare to come to the rescue of the witnesses. Considering this material, the detaining authority was of the view that the detenu is a "bootlegger" within the meaning of section 2 (b) of the said Act and with a view to preventing the detenu from acting in any manner prejudicial to the maintenance of public order, it was necessary to pass the order of detention against him and, therefore, the impugned order is passed, which is under challenge in the present petition.

This petition is capable of being disposed of on the first contention advanced by Ms Kachhavah. Therefore, it is not necessary to refer to and deal with the other contentions advanced by her. She contended that the cases registered against the detenu are all prohibition cases and yet to be proved against the detenu. Assuming that the allegations made in the grounds of detention are true, in that event also, at the most the detenu can be held responsible for committing breach of the law and order and under no circumstances he can be held responsible for the breach of public order. Under the circumstances, the subjective satisfaction arrived at by the detaining authority that with a view to maintaining public order the detention of the detenu is necessary is not genuine and, therefore, the impugned order of detention is illegal and void.

I find considerable substance in the submission of Ms Kachhavah. All the cases registered against the detenu are prohibition offences filed against the detenu.

Therefore, there is no question of the breach of maintenance of public order. Even, considering the statements of the witnesses relied upon by the detaining authority, in my opinion, they are vague and general and , therefore, in absence of any cogent material against the detenu, the subjective satisfaction arrived at by the detaining authority for the purpose of passing the order of detention against the detenu is not genuine.

In the result, this petition is allowed. The impugned order of detention dated 29-2-96 is quashed and set aside. The detenu Ravindra @ Raviprakash Shrinarayan Vyas is directed to be set at liberty forthwith if his detention is not required for any other purpose. Rule is made absolute accordingly with no order as to costs.

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